



U.S. Department of Housing and Urban Development  
Buffalo Office  
465 Main Street  
Buffalo, New York 14203-1780  
(716) 551-5755

July 21, 2021

Mr. Thomas R. Hersey, Jr.  
Commissioner, Erie Co. Dept. of Environment  
and Planning, County of Erie  
95 Franklin Street  
Buffalo, NY 14202

Dear Mr. Hersey:

SUBJECT: Monitoring of Community Development Block Grant  
(CDBG and CDBG-CV) Program  
Program Year 2018: B-18-UC-36-0001  
Program Year 2019: B-19-UC-36-0001  
Program Year 2020: B-20-UW-36-0001  
Erie County, New York

The Community Planning and Development Division has completed monitoring of the subject grant. The enclosed report details the results of the review and serves as a follow-up to issues discussed during the exit conference.

HUD's conclusions contained in this report are based upon regulatory compliance with program requirements. There are no findings and one concern contained in the enclosed monitoring report, which discusses these matters in detail. Although no response to the Concerns in the report is required, we would welcome receiving any additional information you may wish to submit in response to the recommendations contained in the report.

Thank you for the cordial cooperation extended by you and your staff during this review. If you have any questions or would like further information about the monitoring, please contact Elizabeth McClam, Senior Community Planning and Development Representative, at (716) 646-7019 or via e-mail at [elizabeth.a.mcclam@hud.gov](mailto:elizabeth.a.mcclam@hud.gov).

Sincerely,

A handwritten signature in dark ink, appearing to read "William T. O'Connell", is written over the typed name.

William T. O'Connell  
Director  
Community Planning and  
Development Division

Enclosures

cc: Paul D'Orlando

**U.S. Department of Housing & Urban Development  
Buffalo, New York Office**



**Monitoring Report  
Community Development Block Grant**

**Erie County, New York**  
**Program Year 2018: B-18-UC-36-0001**  
**Program Year 2019: B-19-UC-36-0001**  
**Program Year 2020: B-20-UW-36-0001**

**Dates Monitored: May 12, 2021 – June 2, 2021**

## INTRODUCTION

Monitoring is the principal means HUD uses to carry out its statutorily mandated responsibility to review grantee performance in administering HUD programs. HUD ensures that programs and technical areas are carried out efficiently, effectively, and in compliance with applicable laws and regulations. It assists grantees in improving their performance, developing, or increasing capacity and augmenting their management and technical skills. Monitoring helps assure that Federal funds are not wasted or used for fraudulent purposes. It is meant to be an ongoing process that assesses the quality of a grantee's performance over a period and may involve repeated communication and evaluation. This report has been prepared to document the FY2021 monitoring of the Erie County's CDBG programs.

**Dates of Monitoring:** May 12 – June 2, 2021  
**Type of HUD Grants:** CDBG / CDBG-CV  
**Type of Monitoring:** Remote  
**HUD Reviewer:** Elizabeth McClam, Senior CPD Representative

**Entrance Conference:** May 12, 2021  
**Participants:** Erie County  
Paul D'Orlando, Principal Contract Monitor

Housing and Urban Development (HUD)  
Kimberly Hogan, Senior Financial Analyst  
Elizabeth McClam, Senior CPD Representative

**Exit Conference:** June 2, 2021  
**Participants:** Erie County  
Paul D'Orlando, Principal Contract Monitor

Housing and Urban Development (HUD)  
Kimberly Hogan, Senior Financial Analyst  
Elizabeth McClam, Senior CPD Representative

**Contact Information:** Elizabeth McClam, Senior CPD Representative  
[elizabeth.a.mcclam@hud.gov](mailto:elizabeth.a.mcclam@hud.gov)  
465 Main Street, 2<sup>nd</sup> floor  
Buffalo, New York 14203

## **SCOPE OF REVIEW**

In determining which grantees will be monitored, the Department uses a risk-based approach to appraise each grantee's programs, functions, and performance, as well as, assessing the Department's exposure to fraud, waste, and mismanagement. This process not only assists the Department in determining which grantees to monitor, but also identifies which programs and functions will be reviewed during the monitoring visit. Considering the need for safety precautions to stop the spread of the coronavirus, HUD's Office of Community Planning and Development only conducted remote monitoring of our grantees this year. As a result of HUD's analysis of Erie County's Community Development Block Grant (CDBG) programs, the public facilities / infrastructure improvement projects were identified for review and the following exhibits from the CPD Monitoring Guide were advised:

- Eligibility, Low-Mod Income Area, Low-Mod Income Clientele (**Exhibit 3-1, 3-2, 3-3**)
- Overall Management Systems (**Exhibit 3-17**)
- Public Facilities/Improvements (**Exhibit 3-25**)
- Financial Management and Audits (**Exhibit 34-1a**)

## **SUMMARY OF RESULTS AND CONCLUSIONS**

Areas reviewed may result in the identification of findings, concerns, or exemplary practices. A finding is identified as a deficiency in program performance that violates a statutory, regulatory or program requirement. If noted, findings include a corrective action and a timeframe for response. A concern is a recommendation to change or provide further information on a current practice. It is brought to a grantee's attention so that this practice can be improved, and a future finding can be avoided. Grantees are not required to respond to a concern but rather, use those recommendations provided as an opportunity to improve current programs and systems. An exemplary practice is a noteworthy practice or activity being carried out by the grantee and may possibly be duplicated by another grantee to improve its performance.

This report contains no findings and one concern. The areas that were reviewed are described in this report in detail with the attached exhibits. Staff interviews, file reviews and exhibits were used as a basis for this report.

Your HUD representative is available to discuss the results of this monitoring report and provide technical assistance, if needed. If you disagree with any of HUD's determinations or conclusions, please address these issues in writing to the Department within 30 days from the date of this report. Your written communication should explain the reasons why you disagree and include supporting evidence and documentation. All communications should be forwarded to:

U. S. Department of Housing and Urban Development, Buffalo Office  
Community Planning and Development Division  
465 Main St., 2<sup>nd</sup> Floor  
Buffalo, NY 14203-1780

## **AREAS REVIEWED**

This section of the report summarizes area and/or program requirements that were reviewed. More detailed information can be found in each Exhibit that is cited and which is included as an attachment to this Report.

### **CDBG Program Eligibility and National Objective**

Reference: Exhibit 3-1 Review of Eligibility  
Exhibit 3-2 Review of National Objective of Low/Mod Income Area Benefit  
Exhibit 3-3 Review of National Objective of Low/Mod Income Limited Clientele

**Summary: There are no findings and/or concerns in this area.**

This portion of the review examined the County's documentation that the following projects met CDBG program eligibility and national objective requirements. The project samples for review included:

<b>IDIS Activity</b>	<b>Activity Name</b>	<b>National Objective</b>
5200	FeedMoreWNY Food Pantry & Meals on Wheels	LMC
5069	Smart Growth Initiative- V. Lancaster- Central Ave	LMA
5083	Village of Springville Well #1 Replacement	LMA
4976	V. Alden Smart Growth Project – Broadway	LMA
4818	T Evans Smart Growth Kennedy Avenue Sidewalks	LMA
4915	C. Lackawanna- Infrastructure Improvements	LMA

### **Low and Moderate Area Income Benefit** (IDIS # 5069, 5083, 4976, 4818, 4915)

All projects selected appear to benefit everyone in the designated service area and records provided did clearly describe the boundaries of the service area and included the percentage of low- and moderate-income persons served by each project. The project location and service area boundaries were located on a map that also identifies each Census Tract(CT) and Block Group (BG) that is included in the activity's service area. Some communities have very few areas in which 51% of the residents are low- and moderate-income. For these grantees, the CDBG law authorizes an exception criterion for such grantees to be able to undertake area benefit activities. Specifically, Section 105(c)(2)(A)(ii) of the Housing and Community Development Act of 1974, as amended, states that an activity shall be considered to principally benefit low- and moderate-income persons when "the area served by such activity is within the highest quartile of all areas within the jurisdiction of such city or county in terms of the degree of concentration of persons of low- and moderate-income."

Erie County, NY has been designated as an exception grantee based on the 2011-2015 American Community Survey (ACS). This exception percentage represents the minimum percentage of low- and moderate-income persons that must reside in the service area of an area benefit activity for the activity to be assisted with CDBG funds. According to information posted at:

<https://www.hudexchange.info/programs/acs-low-mod-summary-data/acs-low-mod-summary-data-exception-grantee>

Currently, Erie County's exception low/mod percent is 29.25% and it is authorized to use the top quartile of 40.50% to qualify for low/moderate income area benefit activities. The projects being reviewed were all funded during 2018 and 2019. Based on the ACS 5-Year 2006-2010 Low- and Moderate-Income Summary Data, Erie County was designated as an exception grantee with a low/mod percent of 27.49% and was authorized to use the top quartile of 38.52% to qualify for low/moderate income area benefit activities. All the public facilities projects selected for review exceeded the criteria.

- #5083: Village of Springville – Well Waterline Replacement – 47.28%
- #5069: Village of Lancaster - Central smart growth improvements – 43.22%
- #4976: Village of Alden – Broadway Avenue Streetscape Improvements – 40.60%
- #4915: City of Lackawanna - The Shoreline Trail Multi-Use Parkway – 67.62%
- #4818: Town of Evans - Kennedy Avenue sidewalk /curb improvements – 47.20%

Of the five projects reviewed, the Town of Evans (IDIS# 4818) did use a survey to qualify its activity as LMA eligible. The survey methodology was provided for review and adequately demonstrated that the percentage of 47.20% for low- and moderate-income residents was accurate. In addition, 47.20% is at least equal to or greater than the program participant's exception percent of 38.52 %. Based on the survey methodology and documents provided, the survey met the standards of statistical reliability that are comparable to the American Community Survey (ACS) Low- and Moderate-Income Sample Data (LMISD).

#### Low- and Moderate-Income Limited Clientele Benefit (IDIS #5200)

Feedmore WNY (IDIS#5200) is classified as low/moderate income clientele (LMC) activity with low/moderate income eligibility restrictions. This project was created as a direct response to the COVID-19 pandemic crisis and involves direct assistance to 20 food pantries of Feedmore WNY and assistance to the Meals on Wheels Program that serve income-eligible clients that are within the Erie County CDBG Consortium. Based on the documents provided, this project did meet the criteria of responding to, preventing or preparing for COVID-19 pandemic. All clients submit proof of age or disability (if applicable), or submit proof of income, as part of a registration process that is required for users to access the service. Based on reports submitted to Erie County, every food pantry screens for eligibility by family size and income at time of intake. A copy of the Intake Form has been included in this monitoring review. Erie County is scheduled to monitor this food pantry CV project in August 2021.

#### CDBG Overall Program Management

Reference: Exhibit 3-17 Review of Overall Management Systems

**Summary: There are no findings and/or concerns in this area.**

The Department of Environment and Planning has been designated by Erie County as the lead entity for administering the CDBG program and is responsible to ensure that funds are used in accordance with program rules and requirements. Utilizing the above referenced Exhibit, the

Department's overall management systems were examined as part of the monitoring review. This portion of the monitoring reviewed the County's systems for ensuring that CDBG funds are used in a manner that complies with CDBG program requirements, including program progress/timeliness, and the reporting of accurate data through HUD's Integrated Disbursement and Information System. Erie County has historically submitted all required reports in a timely manner including its CAPERs. The most recent CAPER was submitted on 6/29/2021.

File documentation and staff interviews demonstrate that personnel are assigned to the day-to-day administration of the CDBG program, and that the Principal Contract Monitor has appropriate authority to exercise supervision over all activities. Although Erie County does track the progress of projects by regularly meeting with staff, conducting site visits to assess progress and whether the project will be completed in a timely manner, this tracking system does not include a timetable with scheduled completion dates. The Department of Community Development staff is knowledgeable and experienced with the requirements for the CDBG Program, Consolidated Plan, Annual Action Plan and CAPER. Overall, monitoring determined that the County has systems in place to manage the CDBG program and is maintaining sufficient records to demonstrate compliance with program requirements.

#### **CDBG Funded Public Facilities Projects**

Reference: Exhibit 3-25 Review of CDBG-Funded Public Facilities/Improvements

**Summary: There are no findings and/or concerns in this area**

This portion of the monitoring evaluated the public works projects funded using CDBG funds for streets/roads and sidewalk reconstruction in 5 selected municipalities in Erie County. A review of the County's project records confirmed the public facilities projects are consistent with the County's Annual Action Plans and completed in eligible service areas. Erie County's method in determining the service area of each activity was census tract/block group. Erie County is designated as an exception grantee based on the 2011-2015 American Community Survey (ACS) and is authorized to use the top quartile of 40.50% to qualify for low/moderate income area benefit activities. For the Town of Evans project, the Town utilized a survey methodology to determine eligibility. The survey and documents provided did adequately confirm that all regulatory HUD requirements for statistical reliability were met.

<b>Census Tract/Block Group</b>	<b>Total Population</b>	<b>Total LMI Population</b>	<b>LMI Percentage</b>
Springville - CT 159	1085	2295	47.28%
Lancaster - CT	1785	4130	43.22%
Evans - CT 155.04/BG 4	301	634	47.20%
Lackawanna – CT 174/BG 1,2,3,4	2725	4030	67.62%
Alden CT 149.01	741	1824	40.60%

Records provided for review did confirm that every project sampled met the LMA national objective. Documents provided included samples of County's Request for Proposals (RFP) seeking bidders. All files included the bids and responses to the bid. Erie County used competitive, sealed bids for every project reviewed and the lowest bid price was selected for

contract. Every sampled projects have all been completed and final accomplishments have been accurately recorded in IDIS. All costs reviewed were eligible, appeared reasonable and were for allowable expenses. It is the County's standard protocol to check the NYS debarred contractor list prior to contract. All documents provided confirm that Erie County ensures that any subawards or contract was not made to any party that has been debarred, excluded, disqualified, or otherwise ineligible. In addition, this HUD reviewer completed site visits to every location and confirmed that the service areas are primarily residential, and the work was completed as reported. There were no special assessments or capital costs collected or levied against residential properties in these designated areas. For all five projects reviewed, Erie County's records were consistent with IDIS data, and the project files validated and supported the project information which the County entered IDIS. No inconsistencies were noted.

### **Financial Management**

Reference: Exhibit 34-1(a) - Guide for Review of Financial Management and Audits (CDBG & CDBG-CV)

**Summary: There are no findings or one concern in this area**

This section of the monitoring assessed the Grantee's conformity to applicable Federal financial management requirements. Specifically, the Grantee's financial management system was reviewed for compliance with 2 CFR Part 200, Subpart D, Post Federal Award Requirements, which provides guidance on financial management, internal controls, subrecipient monitoring, and record retention; Subpart E, Cost Principles, which provides guidance on determining the allowable costs of programs administered by State and local governments; and Subpart F, Audit Requirements, which outlines auditee responsibilities in terms of financial statements and reporting requirements. A limited review of public facilities and CDBG-CV vouchers was performed.

The financial management system included records documenting compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. As per 2 CFR 200.302, the system allowed for preparation of required reports and permitted the tracing of funds to verify expenditures were made in accordance with the requirements of the CDBG and CDBG-CV programs. Controls over assets have been implemented and the accounting records, specifically the Schedule of Expenditures of Federal Awards, identify HUD programs and awards by Assistance Listing (formerly CFDA) title and number and HUD's agency name. It is recommended that the Chart of Accounts and/or internal tracking log be updated to include the Assistance Listing (CFDA) number (14.218), title (i.e., CDBG), HUD as the awarding agency, and name of the pass-through entity, if any. Federal awards and expenditures are identified in the accounting records which are consistent with the grant agreements. The Chart of Accounts is consistent with the account classifications in the general ledger. Expenses are reviewed regularly against the program year budget which corresponds to the grant agreement.

A review of the sample vouchers for the Grantee was performed, including both the CDBG and CDBG-CV programs. Costs reviewed were eligible. The vouchering process was sufficient to ensure prompt, accurate drawdowns, and numerous internal controls are in place. Vouchers were reported and drawn in the proper period of performance. No funding



advances are requested. Invoice amounts in the accounting records tied out to amounts on actual invoices and were within the available funds amount for the contracted expenses reviewed. Sampled invoices were calculated properly. Staff salaries, including those billed as program delivery, charged to multiple funding sources are documented with a detailed breakdown of hours worked on each grant/program. For the CDBG-CV vouchers, the reviewer recommends that the County obtain signed timesheets (including supervisory signature) from Feed More WNY as an additional source document to support the payroll analysis for program delivery costs. This will further strengthen recordkeeping procedures.

The County executes contracts with responsible contractors who possess the potential ability to perform successfully under the terms and conditions of the proposed procurement. Consideration is given to responsiveness to the request for proposal, relevant experience, availability of staff with professional qualifications and technical abilities, the results of peer and external quality control reviews, and price. The County complied with the requirement to determine that the contractor was not debarred, suspended, or otherwise excluded from, or ineligible for, participation in Federal programs or activities when required. There is evidence in project files showing the County took the required steps to determine that the contractor was not debarred, suspended, or otherwise excluded from, or ineligible for, participation in Federal programs or activities.

The Department of Environment and Planning does not have a written record retention policy. As per interviews with program and financial staff, all documents are boxed after six years and retained in storage permanently which is an acceptable retention practice. The reviewer recommends establishing a written policy confirming these guidelines for staff.

Interviews with financial staff and a review of program procedures verified there is adequate segregation of duties. Purchase requisitions are submitted by individual departments within the County, are approved by the accountant, put out to bid by the Purchasing staff, and goods are received by the requesting department, with a goods receipt sent to the Comptroller's Office for payment. Payments are issued only by the Comptroller's Office. Within the Department of Environment and Planning, there are additional safeguards. The Accounting Analyst is responsible for financial management activities such as drawdowns and receipt of program income. The Chief Account Clerk processes payments to vendors and subrecipients and ensures proper linkage between the CDBG and CDBG-CV grant budgets and the County's SAP system. IDIS entries are completed by the Accountant Analyst and then approved by the Principal Contract Monitor. The Grantee has an organizational chart and specific roles and responsibilities.

There are controls over assets in place and care is taken to ensure that financial data and payroll records are secure. The County takes reasonable measures to safeguard protected personally identifiable information (PII) and other information that is considered sensitive, as well as safeguarding assets. Financial information, including payroll documentation related to program delivery and administration, is kept in locked files; sensitive data is kept locked. Payroll is electronically maintained with passwords which are required to be changed regularly. The building has restricted entry and the floor is secured. A system has been recently implemented to require a County ID card for printing documents which allows for secure

retrieval. The County maintains a policy on proper disposal of confidential records. Checks are maintained electronically, and the Grantee routinely assesses its internal control system as part of the annual single audit process.

A review of financial management policies and procedures indicates that the Grantee has not updated its financial policies and procedures to reflect the requirements of 2 CFR Part 200. The Erie County Policy and Procedures Manual – CDBG (Review of Subrecipient Single Audits) references the outdated OMB Circular A-133 and an audit filing threshold of \$500,000 or more in receipts of federal funds. In addition, the most recent single audit procurement referenced the outdated OMB Circular A-133. These documents, and future requests for proposals for the single audit, should be updated to reflect the 2 CFR Part 200 guidance and an audit filing threshold of \$750,000 or more in annual federal expenditures. This is noted as a concern:

**Concern #1: The Grantee has Established Financial Policies and Procedures; however, there are Outdated References to OMB Circular A-133 Which Should be Updated to 2 CFR Part 200**

Condition	The County's financial policies and procedures, as well as the most recent single audit procurement, reference outdated OMB Circular A-133.
Cause	The Erie County Policy and Procedures Manual – CDBG (Review of Subrecipient Single Audits) references the outdated OMB Circular A-133 and an audit filing threshold of \$500,000 or more in receipts of federal funds. In addition, the most recent single audit procurement referenced the outdated OMB Circular A-133.
Effect	The County may not be in compliance with federal financial requirements. Effectiveness of operations and accurate and reliable financial reporting may also be affected by the use of outdated regulatory citations.
Recommended Action	Ensure that financial policies and procedures as well as any future single audit procurements are updated to reflect the requirements of the current regulatory guidance, 2 CFR Part 200, and the correct audit filing threshold of \$750,000 in annual federal <u>expenditures</u> (not receipts).

Program income is handled appropriately. The County records program income in a separate general ledger fund organized by project number and year. Subrecipient program income is recorded in IDIS upon receipt of required periodic reports.

The Grantee did not file the most recent Single Audit electronically with the Federal Audit Clearinghouse (FAC) timely. Most recently, the 12/31/2019 fiscal year end Single Audit was submitted to the Federal Audit Clearinghouse on 8/27/2020, which was after the earlier of: within 9 months following the fiscal year end or 30 days following receipt of the Independent Auditor's Report (Independent Auditors' Report on Internal Control Over Financial Reporting

and On Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance with Government Auditing Standards was dated 6/12/2020 and the Independent Auditors' Report on Compliance for Each Major Federal Program and Report on Internal Control Over Compliance in Accordance with the Uniform Guidance was dated 7/17/2020). Awarding agencies, in their capacity as cognizant or oversight agencies for audit, should allow recipients and subrecipients that have not filed their single audits with the Federal Audit Clearinghouse as of 3/19/2020 that have fiscal year-ends through June 30, 2020, to delay the completion and submission of the Single Audit reporting package, as required under Subpart F of 2 CFR § 200.501 - Audit Requirements, to six (6) months beyond the normal due date. No further action by awarding agencies is required to enact this extension. This extension does not require individual recipients and subrecipients to seek approval for the extension by the cognizant or oversight agency for audit; however, recipients and subrecipients should maintain documentation of the reason for the delayed filing. No documentation to support the delayed filing was provided. The reviewer recommends that documentation be maintained on-site to verify the reason for the delayed filing.

The County completed a Procurement of Audit Services in 2016 in accordance with 2 CFR 200.317 – 200.326. The County's Request for Proposal (RFP) for Audit Services clearly stated the objectives and scope of the audit and included the requirement for the audit organization's peer review report, which establishes auditor capacity. It is important to note that a procurement for audit services should be performed every three to five years.

Please be reminded that the Federal Funding Accountability Transparency Act (FFATA) requires information about Federal awards be maintained in a single, searchable website available to the public. The FFATA was enacted in 2006 to collect information from prime recipient about executive compensation and sub-recipient/contractors and requires prime recipients to electronically report their sub-recipient/contractor's activity for compliance. The FFATA Subaward Reporting System (FSRS) is the reporting tool Federal prime awardees (i.e., prime contractors and prime grants recipients) use to capture and report subaward and executive compensation data regarding their first tier subawards to meet the FFATA reporting requirements. Prime contract awardees will report against sub-contracts awarded and prime grant awardees will report against sub-grants awarded. The sub-award information entered in FSRS will then be displayed on [www.USASpending.gov](http://www.USASpending.gov) associated with the prime award furthering Federal spending transparency. In accordance with 2 CFR Chapter 1, Part 170, prime awardees awarded a federal grant are required to file a FFATA sub-award report by the end of the month following the month in which the prime awardee awards any sub-award equal to or greater than \$30,000 in Federal funds that does not include recovery funds. The CARES Act is at the forefront of HUD's compliance focus and the County should ensure continued compliance with the FSRS reporting requirement.